

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

05-CV-355

\$2,300,577.10 IN UNITED STATES CURRENCY,
ET AL.,

Defendants.
-----x

Transcript of a Proceeding held on July 6,
2005, at the James Hanley Federal Building,
100 South Clinton Street, Syracuse, New York,
the HONORABLE NORMAN A. MORDUE,
United States District Judge, Presiding.

A P P E A R A N C E S

For Plaintiff:

UNITED STATES ATTORNEY'S OFFICE
James T. Foley U.S. Courthouse
Room 231
445 Broadway
Albany, New York 12207-2924
BY: THOMAS A. CAPEZZA, ESQ.
Assistant U.S. Attorney

Also Present:

Kenneth Titus, Sr.
Linda Sadr

JODI L. HIBBARD, RPR, CRR, CSR
(315) 234-8547

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1 (Open Court, 10:08 a.m.)
2 THE COURT: Next one, Judi.
3 THE CLERK: Case Number 2, United States of
4 America versus 2 million --
5 THE COURT: Redwood Trust case.
6 THE CLERK: The Redwood Trust case. Please
7 note your appearances for the record.

8 MR. CAPEZZA: Your Honor, good morning, for
9 the United States, Assistant U.S. Attorney Thomas Capezza.
10 Also present with me, your Honor, is Ms. Jane Traver,
11 paralegal on the case.

12 THE COURT: Okay. Good morning.

13 MS. TRAVER: Morning.

14 MR. CAPEZZA: Your Honor --

15 THE COURT: I had the impression there was
16 going to be an appearance this morning by Mr. Titus.

17 MR. TITUS: Yes, your Honor.

18 THE COURT: Oh, come up here, sir.

19 MR. CAPEZZA: Your Honor, just briefly by way
20 of background, the United States filed a civil forfeiture
21 complaint on March 21st, 2005 alleging that more than
22 \$2.3 million in funds that were seized as well as checks and
23 money orders were the proceeds of a scheme to use the mails
24 to defraud investors. Briefly, your Honor, the complaint
25 states that in essence more than 900 persons paid

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1 approximately \$3,000 each to obtain a line in a queuing
2 scheme whereby their mortgages would be paid off in full.
3 The period of time alleged is September 2003 to December
4 2004, the complaint alleges that more than \$4 million was
5 received by Redwood Trust and Mr. Titus and less than
6 2 percent of that was used to pay off one mortgage during
7 that entire period of time. The complaint further alleges
8 that Mr. Titus instructed his subordinates not to accept
9 payments by mail because that would constitute mail fraud.

10 Your Honor, based on the time period that's
11 alleged and also the claims that were received, we have yet
12 to receive a claim or an answer from Mr. Titus. We have,
13 however, endeavored to identify all of the proposed or
14 potential victims in this case and we have received
15 approximately 500 responses, either in the form of a petition
16 for remission or a claim. The issue before the Court today
17 is whether or not Mr. Titus is himself making a claim to this
18 property and if not, then we'll go forward, continue to
19 identify the remaining investors with a view to forfeiting
20 the funds so as to return the money to those investors.

21 THE COURT: Mr. Titus?

22 MR. TITUS: Yes, your Honor. I'd like to say
23 that part of those funds belong to Redwood Trust, and you'll
24 have to forgive me, I'm on medication for sciatic nerve here
25 and I'm kind of drugged up so I'm not really thinking too

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1 clearly so -- but for the record I would like to say that
2 it's my opinion that these -- this money was derived from
3 organized crime activities perpetrated by the U.S. Postal
4 Inspector and the IRS office, that I've gone through the
5 information that I got from the government and I find that
6 it's full of fraudulent claims. There's no basis in fact for
7 very many of the things that they're claiming in there, and
8 it's kind of like somebody has a crystal ball and they just
9 put down what they want to. They're claiming that I have

10 bank accounts that I don't have, they're making a lot of
11 claims, I've gone down each paragraph and it seems that as I
12 go down them, each one has errors on those.

13 Right now I'm in no position to argue a case,
14 I'd like to get an attorney for this to protect the money
15 that part of which belongs to Redwood Trust, which has been
16 given Redwood Trust by contract between the clients and
17 myself. Right now our clients are looking to file a class
18 action suit against the government for seizing funds that
19 have been held in our trust by way of contract from our
20 clients and they've interfered with that contract. We right
21 now have places we could put that money that would take care
22 of these mortgages and we're being prohibited from doing that
23 because they've seized these funds.

24 THE COURT: Well, let me ask you, are you --
25 from what you're saying, you're making a claim for the funds

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1 then also?

2 MR. TITUS: Yes, your Honor.

3 THE COURT: You are.

4 MR. TITUS: I'm claiming that they've been
5 taken from us from illegal activity on the part of the
6 government and in fraudulent statements within the body,
7 embodiment of this whatever you call it, that's been sent out
8 to me. And at some point, those will probably all be covered
9 in the court case in Albany and I think that at this time it
10 would be kind of remiss to be deciding what's going to happen
11 to money that hasn't been decided if there's going to be a
12 crime.

13 And I'd also like to say that the gentleman
14 here says that 500 people have responded, well, I'm appalled
15 at how the government has handled this case, in that they
16 instructed us that we could not use our computers at the
17 office to notify people of anything. They did serve me with
18 papers, they do not notify any of my clients at all, they
19 think they're going to get it through osmosis in the air, I
20 guess, and only because we have a rep that has a web site

21 that allows us to put something up there to inform them,
22 we've been able to inform some of our reps that were also
23 clients. Now some of the people out there that were just
24 clients and were not reps also, they don't know about that
25 site, so they're not finding out.

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1 In addition to that, some of the people that
2 had sent in their paperwork was getting a call from the post
3 office, the postmaster, and they were telling them that they
4 need to go on the web site, they sent them a letter saying
5 that this money was possible fraudulent activity and they're
6 telling them they've got to go on the web site and fill out a
7 form that says it is derived from fraudulent activity or they
8 can't get their money back.

9 Now some reps have called me and said, look,
10 I'd like to just leave my money there if that's going to be
11 good for you and I said, no, claim your money because I said
12 with what they're doing, they're trying to get default on the
13 money so they can just take it, it's all about taking the
14 money is what it's about, you want to put in a claim to get
15 your money, those 500 people are people that I informed and
16 they're getting information from the postmaster stating that
17 they must turn in this other form or they won't get their
18 money. Now it's asking them to make a legal decision, it's
19 asking them to commit perjury because I haven't been charged
20 with any crime, none's been proven, so to have them state the
21 funds are fraudulent to begin with would be making a false
22 statement, that would be filing a false report and the
23 government --

24 THE COURT: It's not a false statement if
25 there's a good faith basis to believe in it. It may come

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1 out, maybe down the road you may --

2 MR. TITUS: Well, it could be further down the
3 road that they might say that it's fraud but at this point
4 it's not so they would be guessing that maybe it is and the
5 reps right now don't feel, some reps say I don't want to fill
6 that out because that's fraud, they're trying to get us to
7 make a false statement and we're not going to do it. And
8 they're telling them that they have to fill that out, stating
9 that it is fraudulent funds before they can get a refund so a
10 lot of people never sent that in. So there's a lot of people
11 out there that have never been notified, there's a thousand
12 people and only half of them have been sent in. I'm sure the
13 others would like to know that this is happening so they can
14 put claim to their money. If they take all the money, if my
15 clients get their money back and it doesn't go to the
16 government, then I'm a happy camper, but I don't want the
17 government getting the money because they failed to notify.
18 I see in here it says that they may notify them and that was
19 like real good language that they may, and the fact is they
20 didn't, and I think, I think it's incumbent upon the
21 government to give fair notice to people to make claim on
22 funds instead of just plain seizing the funds.

23 THE COURT: Thank you, sir. Mr. Capezza.

24 MR. CAPEZZA: Your Honor, thank you. The
25 issue before the Court today is whether or not Mr. Titus is

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1 making a claim to the property. With respect to the
2 government's endeavors, we have a web site that we've put up
3 that we've used to notify various parties. The postal
4 service pursuant to the criminal investigation has began
5 notifying parties as well. No one is being asked to decide
6 in a form whether or not this is fraud. All we've asked is
7 that people submit documentation showing that they made a
8 payment to Redwood Trust, it's not for them to say that this
9 is fraud or not. It's simply saying, they have a fund or
10 they have an interest in the funds that have been seized.

11 With respect to whether or not the government
12 is going to seize this money or forfeit this money, the issue

13 really right now is is Mr. Titus making a claim on behalf of
14 himself. If the answer to that question is yes, then the
15 litigation goes forward, we'll serve him with a Notice of
16 Deposition and he will contest, as it is his right, that this
17 is not the proceeds of mail fraud. If he prevails, the money
18 will go back to Mr. Titus and -- or Redwood Trust in which
19 case then he can do with it what he chooses, but if he does
20 not prevail, then the government will forfeit the money with
21 a view to returning the funds to those investors because
22 we've met our burden and established that it's mail fraud
23 proceeds.

24 So the issue, your Honor, is whether or not
25 Mr. Titus today having been given notice of this hearing,

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1 having known for several months of this hearing, is he making
2 a claim to the money on behalf of himself.

3 THE COURT: I think you indicated you were.

4 MR. TITUS: No, I'm not, I'm making a claim
5 for the money on behalf of Redwood Trust as trustee for the
6 trust.

7 MR. CAPEZZA: That's fine, your Honor. What
8 we will do is we will submit to the Court an order, the order
9 will bar all claims of Mr. Titus and anyone else with the
10 exception of Redwood Trust and also --

11 THE COURT: And he as trustee.

12 MR. CAPEZZA: Yes, and also all investors in
13 the Redwood Trust program. To the extent that someone may
14 decide that they have actually made a claim to the property
15 or have submitted \$3,000 or whatever funds, their claim would
16 be preserved as well.

17 THE COURT: That seems reasonable.

18 MR. TITUS: Yes, your Honor. I would like to
19 say, too, that part of the funds was from people that have
20 sent in money in denominations of 25,000 and one was up to
21 100,000 as part of that money and that was -- and where we
22 were going to put the money into a program that would have

23 given him back a very high return per month and --

24 THE COURT: Was that 100 every 14 days, 100
25 percent turnover? Was that where you were going to

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1 receive -- I read in the complaint about there was a claim
2 that you could turn the money, in 14 days, make 100 percent
3 what you earned, is that --

4 MR. TITUS: That was something else, your
5 Honor.

6 THE COURT: Okay.

7 MR. TITUS: That was an investment that I was
8 looking at. Actually, this was -- this was a very good
9 return and these people gave the money with the idea that if
10 we couldn't place that in a program, it could give what we
11 was looking to get. There was another -- there was other
12 people that were doing the same, similar thing, using the
13 same method that I was going to use, and my deal with them
14 was that, the contract with them was that if we couldn't
15 place that money to give them that return, they would get
16 their money returned, get a refund and so I think as part of
17 these funds that are here, those people that made those
18 investments not part of the Redwood Trust, where we were
19 looking to help people with their mortgages, those people
20 should have their funds returned to them, they have a list of
21 those and they were not part and parcel to what they're
22 claiming is illegal activity. This was funds that was
23 brought in separately to be invested and I'd like to see
24 those funds go back to those people intact.

25 MR. CAPEZZA: Your Honor, the complaint does

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1 include allegations relating to what Mr. Titus is referring
2 to, the Blessings program, that's also the subject of this
3 civil forfeiture proceeding so to the extent that Mr. Titus
4 is making a claim on behalf of Redwood Trust as the trustee,

5 that will be litigated part and parcel with the mortgage
6 program. Moreover, your Honor, to the extent that Mr. Titus
7 is making a claim as trustee on behalf of Redwood Trust, I'd
8 just like the record to reflect that I'm serving Mr. Titus
9 with a Notice of Deposition for his deposition on July 28th
10 and 29th in Albany, New York.

11 THE COURT: The record will reflect that. All
12 right. Anything further then at this time?

13 MR. CAPEZZA: Nothing further, your Honor. We
14 will submit to the Court for its consideration an order
15 barring all claims with the exception of Redwood Trust and
16 also certified investors in the programs identified in the
17 complaint.

18 THE COURT: Fine.

19 MR. TITUS: Your Honor, I think there's
20 someone in the court at this time that has appeared, come
21 from another state to make claim for the money because she
22 was -- she was not notified by the government so she heard at
23 a late date and so she's here to make claim and she has a
24 sizable amount of money that she's put in so I'd like -- I'd
25 like her to be heard.

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1 MS. SADR: Your Honor, thank you, my name is
2 Linda Sadr.

3 THE COURT: Could you, Linda --

4 MS. SADR: S-a-d-r.

5 THE COURT: Okay.

6 MS. SADR: Thank you, sir, and I have
7 approximately \$131,000 of my client -- I represent my client,
8 I've funded this program for each one of my clients for --

9 THE COURT: Are you a representative?

10 MS. SADR: I -- yes, sir, thank you. And we
11 did not none of us out of 51 of us, we did not anyone receive
12 this court notice and I got it by hands down, somebody
13 passing it to someone else. The Court didn't notify any of
14 our clients and that's a lot of clients to miss. I'm going

15 to assume that they were negligent on a whole lot of other
16 people. And on this statement it says in order to avoid
17 forfeiture of the property any person claiming an interest,
18 this is the Court's document, I believe the prosecutor's, and
19 any person claiming an interest in or right against the
20 property must file and then it gives how many days you have
21 to file and then how many days you have to submit another
22 group of paperwork, and we've just received this and this is
23 a 20-hour-round-trip drive to get here because I'm on the --
24 excuse me, or in the alternative they must appear in the
25 United States District Court today. So I'm not sure who's

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1 filed claims to this, we would like to protect our clients'
2 money, we have never had any reason to not believe that we
3 would get our money back from Mr. Titus through this entire
4 group --

5 MR. CAPEZZA: Your Honor, with respect to that
6 claim, we have seized the funds from Redwood Trust and
7 Mr. Titus, that's the proposed or that's the interested party
8 that we have served, also made notice on a web site. With
9 respect to the clients that Ms. Sadr is speaking about, we
10 will honor those claims to the extent that they can
11 corroborate that they made a payment to Redwood Trust. They
12 are not the subject of this forfeiture proceeding. The goal
13 of the United States is to forfeit the funds from Redwood
14 Trust and Mr. Titus with a view to returning those funds to
15 people who made payments to Redwood Trust in these programs.

16 THE COURT: So she is protected then?

17 MR. CAPEZZA: Correct, to the extent that she
18 can corroborate that but we need some documentation that says
19 who the interested party is and what documentation they have
20 to show that they in fact made a payment to this fund.
21 That's all we're asking for. We're not asking that they make
22 a statement that Mr. Titus did anything wrong, simply that
23 they make a statement that they in fact made a payment to
24 this fund and whatever corroborating documentation that they
25 can offer.

1 MS. SADR: I apologize, your Honor, it was my
2 understanding that if I submitted the document that I
3 personally saw, it actually implements Mr. Ken Titus and the
4 Redwood Trust group as doing potential illegal activities.
5 It's not my place to make that judgment. My group was asked
6 to sign this, these documents in order to submit our names
7 with a claim on our funds and we didn't think that was
8 appropriate. It was saying that this gentleman or his group
9 is guilty before we had even made it to court, or implement a
10 potential guilt and that we wanted our money back. Up to
11 this point for the last year requested our money which is
12 owed directly to Redwood Trust, requested money, within 10
13 business days, they had the money back in hand. We never had
14 an issue getting our money back from the company. Apologize,
15 sir. And also we were with the understanding there was a
16 potential that if we went through this direction, we would
17 not get the full refund, we would get the remaining
18 percentage of what was left after costs.

19 THE COURT: That's possible.

20 MS. SADR: That's why we didn't want to go
21 through this direction because we were at this point always
22 able to get the full refund and now to put us in a position
23 now getting a percentage of our refund because the
24 government, I'm not sure the government, sir, I don't know
25 what group has stepped in and put their hands on it but

1 because their hand is now on it, 131,000 may turn into
2 \$42,000.

3 THE COURT: Mr. Capezza, you want to address
4 that?

5 MR. CAPEZZA: Sure, your Honor. With respect
6 to people getting all of their money back or a portion of

7 their money back from the government, I'll simply say the
8 allegations in the complaint say that Redwood Trust received
9 more than \$4 million. The government seized \$2.4 million,
10 given the total value, we do not have all of the money. In
11 terms of Mr. Titus returning funds, neither does he have all
12 of the money to return all of the funds if everyone asked for
13 those funds. Is he capable of returning funds to one or two
14 or individual investors? Yes, but with respect to his
15 ability to return all of the funds to all of the investors,
16 he doesn't have that, even if we were to return \$2.4 million
17 to him.

18 Among the allegations in the complaint are
19 that he used \$400,000 of those funds to finance a loan for
20 someone else to use as collateral. Now he does not have all
21 of the funds. So does this one person obtain all of their
22 money back if Mr. Titus had it? Yes. Could Mr. Titus return
23 all of the funds to all of the investors? No. Because he
24 does not have it. They received more than \$4 million, we
25 seized \$2.4 million, this is the best effort to the extent

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1 that these represent proceeds of mail fraud to in essence
2 return the funds on a pro rata basis to all of the victims,
3 if they turn out to be victims, and that will be equitable to
4 all of the investors and not just a handful of investors that
5 might have the insight to be able to obtain a refund from
6 Mr. Titus.

7 With respect to the documentation that the
8 government requests, we simply want to make sure that people
9 who made a payment to Redwood Trust can corroborate that they
10 in fact made a payment so that they're due a payment.

11 THE COURT: You're not looking for some
12 statement by them that they were -- the money was wrongfully
13 taken from them or it was some impropriety in the nature of
14 why they gave the money?

15 MR. CAPEZZA: No. All I'd like to know, your
16 Honor, is can you corroborate that you made a payment on XYZ
17 date. With respect to other investors --

18 THE COURT: For example, send me a copy of the
19 check?

20 MR. CAPEZZA: Yes, that would be fine, your
21 Honor, so that we can show that this investor made a payment
22 on this date so that we're not refunding money to persons who
23 don't deserve money which would diminish the pool of assets
24 available to be returned to investors. Also, your Honor, I
25 would just point out to the extent that Mr. Titus claims that

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1 other people aren't here or haven't been given notice, your
2 Honor, we have received contact from a number of investors
3 who have told us Mr. Titus has in fact e-mailed them and
4 discouraged them from cooperating with the government and so
5 to the extent that some parties may not be aware of this,
6 your Honor, there are a number of parties who have been
7 discouraged from participating. I'm not interested in
8 forfeiting the funds from legitimate investors who maybe made
9 a decision to invest believing that the outcome would be that
10 their mortgage would be paid off. We're simply interested in
11 forfeiting the funds from Mr. Titus in Redwood Trust so that
12 those funds, if they're proven to be mail fraud proceeds, can
13 then be returned on a pro rata basis to those individuals
14 that have been defrauded.

15 MS. SADR: Your Honor, I apologize, thank you,
16 sir. I would just like a copy of whatever it is that he's
17 saying that it does not implicate or steer the assets of
18 clients towards the direction to believe that we're now
19 signing the paper or actually agreeing to their statement.

20 THE COURT: Everything he said has been taken
21 down by this court reporter, transcript.

22 MS. SADR: I apologize, I meant he said that
23 he sent out a letter or there's a letter somewhere that
24 doesn't give us the impression that we're implicating someone
25 of any illegal action, that would be great.

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1 MR. TITUS: Numerous calls, your Honor, that
2 people complain that they're actually getting calls from the
3 postal department stating that they have to fill that out or
4 they cannot get their funds and I have not discouraged anyone
5 from coming after their money. As a matter of fact people
6 are calling me and I'm telling them, you go after those funds
7 because I don't want them forfeited. They're going to get
8 forfeited to the government and I thought this would all
9 happen before my court case came up and I want to make sure
10 if they had money coming they would get their money.

11 What I did discourage is that they fill out
12 and that they contact their attorney if they have any
13 reservations about the form that's stating that there was
14 fraud committed when they don't know if there's fraud
15 committed for sure. They were actually making a statement
16 there was fraud committed and they're telling them they have
17 to fill that out.

18 Now he's saying we took in \$4 million,
19 \$4 million, a third of that which belongs to Redwood Trust as
20 part of our fee and he's saying that we received that money.
21 We didn't receive that money, a lot of that money went
22 directly to a third-party processor not even in our name and
23 went to them. Now they know all the people because they have
24 my records, they have all the people who paid, they know who
25 actually paid money, and in addition to that, if I ever sent

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1 in -- I've got a web site, a party has a web site that we put
2 on there the fact that they could claim the money. First, it
3 was under admiralty law, that they had to fill this out under
4 admiralty law and rules and sections this and that, they had
5 to go to an attorney to do this and finally one of the reps
6 called Mr. Capezza, I believe it is, prosecutor in Albany,
7 and he said all you have to do is send a letter stating that
8 you participated and send proof of like a canceled copy of
9 your bank check, and that would suffice, then they are told

10 that they have to go to a web site and fill out this other
11 form, so it's been very confusing to these people.

12 And the fact is a lot of people that were not
13 reps, that were just clients, we didn't have them, what we
14 had was we had a web site that we had captured 2,000 of our
15 own reps because it was only for reps. We had the names of
16 2,000 people out of 6,000 reps and we were able to send
17 e-mails out to them because we were prohibited from using our
18 e-mail at the office which we could have e-mailed everyone
19 but we were told by the postal inspector and the IRS that we
20 couldn't use our system to send out e-mails to these people
21 which would have went to everyone.

22 Now they have a list of our clients and they
23 also have a list of which ones that paid. So they know
24 there's a lot that have paid that haven't sent them anything
25 because they have the records right there. I would like

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1 these people notified. I would like each one of these people
2 to receive a letter and something straight forward, you know,
3 send a letter, copy of your bank check, and to claim your
4 money because there's these 500 other people that are sitting
5 out here that aren't even knowing about this and they can't
6 make claim and I don't want to see that happen. I been very
7 adamant from the beginning, that was the first thing that I
8 brought up with my attorneys, that I was very upset about
9 this, my clients were not able -- excuse me, were not able to
10 put in to, you know, make claim for their funds and they're
11 playing these games with, well, we got these forms, now we
12 have this, now you got to have this. These people are
13 getting very upset, they're getting very confused over this
14 situation. I figured more people would be here today, but
15 some says this is like a losing battle, fight with these
16 people. But I think most of the people that knew about it,
17 knew where to send it, has sent it, but the others just don't
18 know and I can't get ahold of them and now my system at work,
19 that's all shut -- at the office is all shut down so now I

20 can't e-mail, but they have the list of all those people and
21 I'd like to see a letter or something go out to these people
22 to notify that they have a right to put a claim in on this
23 money. I mean them depriving them of their money is -- has
24 got to be just as bad as what they're claiming that -- what
25 I'm doing.

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1 THE COURT: Well, the government is of the
2 position that it was not a proper source of raising money.

3 MR. TITUS: I'm sorry?

4 THE COURT: The government's position is that
5 there's been fraud here to these people, am I right?

6 MR. CAPEZZA: Yes, your Honor.

7 THE COURT: So with that, they've got the
8 Redwood Trust, now they're giving notice to people, you don't
9 believe the notice is adequate apparently.

10 MR. TITUS: Well, they said they have a web
11 site someplace and I don't know where it's at. I mean, I
12 haven't seen it.

13 THE COURT: The government has an obligation
14 to try to ferret out each person that did contribute and
15 their goal seems to be they'll get notified of all the people
16 that gave money and then they will attempt to on a pro rata
17 basis pay everybody back.

18 MR. TITUS: If they're notified I'm going to
19 be happy, your Honor, but right now they haven't been
20 notified and that would have to be extra effort on their part
21 because they know who's put in claims now so the others need
22 to be notified, that at least they have a chance to put a
23 claim for that money.

24 MR. CAPEZZA: Judge --

25 MR. TITUS: I don't have the records for that,

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1 they've seized all my records so I have no ability to do

2 that. We were prohibited from doing that when we could do
3 it.

4 MR. CAPEZZA: Judge, the principal point here
5 is forfeiting the funds from Redwood Trust and Mr. Titus and
6 with respect to other claimants or potential claimants or
7 interested parties we have, we want to return those funds to
8 them, their funds are not in jeopardy.

9 The one point that I think Mr. Titus has to
10 clarify is this. On one hand he says, I want everyone to
11 have notice so that they can get their money back, yet on the
12 other hand he says, I'm claiming on behalf of Redwood Trust
13 the funds. Well, according to Mr. Titus, who does the money
14 belong to, does it belong to the investors or does it belong
15 to Redwood Trust? And I think he characterized a third of
16 the \$4 million as Redwood Trust's fee, well, who does the
17 money belong to, and he should clarify, does he want all of
18 the money to go back to investors, in which case him filing a
19 claim on behalf of Redwood Trust will actually inhibit that
20 from happening because then we can't return the funds to
21 investors because we have to litigate the claim of Redwood
22 Trust. On the other hand, if he's saying I as the trustee of
23 Redwood Trust have an interest in the \$4.2 million or
24 whatever you've seized as a third of Redwood Trust's fee,
25 well then he is competing with these individuals that

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1 actually made payments to Redwood Trust to see whose interest
2 is greater.

3 Our view is the money should go back to these
4 investors because it's the proceeds of fraud. Now the issue
5 of fraud has to be litigated, I give you that, but with
6 respect to Mr. Titus, he has to make a decision, is he making
7 a claim on behalf of Redwood Trust and thereby competing with
8 the potential investors who would get their money back, or is
9 he saying that Redwood Trust really doesn't have an interest
10 because it should go back to investors, that's what I'm
11 unclear about.

12 MR. TITUS: My view is that Redwood Trust
13 has -- is entitled to a third of the funds.

14 MR. CAPEZZA: And if that's the case, your
15 Honor, he can't return all of the funds to the investors
16 because all of the money that came in, a third of that is
17 going to Redwood Trust, and I'll just point out they paid off
18 one mortgage in more than a year. So they're claiming more
19 than a million dollars in fees to pay off one mortgage. He
20 can't return the funds. He can't return all of the funds.

21 MR. TITUS: By contract, we had the right to
22 use those funds to settle a mortgage. There was no time
23 limit, no date certain when that was to be done. It was
24 open-ended and the government has stepped in and interfered
25 with the contract between two parties for us to perform the

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1 service that we were offering. Right now we have a company
2 that we could move about a third of our clients into that
3 have the ability to do what we was going to do, they're
4 already set up, money is coming in, and they're set up in a
5 little different way in that they pay the mortgage off in two
6 years, and in three months the client stops paying the
7 mortgage and they start paying the payments and in two years
8 they're paid off. Now we didn't have to pay this mortgage
9 off ourself, in the beginning that wasn't the way it was.
10 They sent money to a processor somewhere and what happened
11 was a third went to us. We had sent in about 50 or 60 to a
12 processor. When that processor couldn't deliver because they
13 ended up they got shut down, at that point a lot of companies
14 that were doing the same thing got shut down across America
15 and what happened is at that point I had like \$50,000, 40,
16 \$50,000 in the bank that I could have just put in my pocket
17 and walked away and said, folks, we can't do this thing,
18 because they can't deliver, and I guess we just can't do it,
19 and I could have walked away with 40, 50,000 at that time.
20 These people said, look, can you figure out somebody else
21 that can help us. There's other methods, right now there's a
22 group of attorneys, that's 80 attorneys that just go into

23 court and based on the fraud in the contracts for mortgages,
24 that's the end of the mortgage, and it's all done in the
25 courtroom, in a federal court and we could be placing these

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1 people with them right now with these funds and we could be
2 delivering on our contract.

3 The funds, there's one reason too why I'm
4 claiming this. They're claiming in Albany they want to put
5 me in prison for 10 years. I'm 200 percent disabled. I have
6 three ruptured disks and Social Security has me listed as a
7 hundred percent disabled for that, I have leukemia, VA has me
8 listed a hundred percent disabled for that. They're wanting
9 to put me in jail for 10 years, that's a death penalty for
10 me, if I can't take natural stuff, I won't last but a couple
11 years. So I've got to fight. Your time is also based on how
12 much money's involved because a third of the money's mine,
13 well then it's not \$4 million and I'm claiming a third
14 because it was a third, however, if I was convicted which I
15 don't believe I'm going to be, that money will then, I want
16 it to go to the clients because they've interfered with this
17 contract and in the past we've given back over a half million
18 dollars to people that wanted the money.

19 Now, I'll tell you, we just got in a whole
20 shipment of devices to go on computers that we were going to
21 market that cost us \$22,000. They're claiming that I was
22 going to run off with the money, in addition to what they're
23 saying here, they're claiming I was going to run off with the
24 money and send it to England. Now if I was going to steal
25 the money, I don't think the month before I'd be spending 20

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1 some thousand dollars on devices that we were marketing
2 through our company. We are a retail function there also.

3 THE COURT: Are you presently under

4 indictment?

5 MR. TITUS: They're going -- probably Friday
6 or the first of next week they're looking to indict me. I
7 want to be present at the indictment, and they're telling me
8 that I -- my lawyer's telling me I can't be present at that.

9 THE COURT: Well, you have a lawyer that
10 represents you on that matter?

11 MR. TITUS: I have two public pretenders.

12 THE COURT: Two?

13 MR. TITUS: Two public defenders from Albany.

14 MR. CAPEZZA: They're aware of this
15 proceeding, your Honor, they've indicated to the government
16 that they don't represent Mr. Titus on the civil matter.

17 THE COURT: Yeah, this is a civil matter.

18 MR. CAPEZZA: Your Honor --

19 THE COURT: We're getting a little bit away
20 from, though, what the situation is.

21 MR. CAPEZZA: Just bring some closure to this.
22 As I understand it, Mr. Titus is making a claim to the funds
23 as a representative of Redwood Trust. He believes that his
24 claim as a trustee of Redwood Trust is superior to that of
25 the persons who actually invested in Redwood Trust for that

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1 third fee.

2 What we will do is this: The government will
3 submit to the Court a proposed order barring all claims with
4 the exception of Redwood Trust and with the exception of all
5 certified investors in Redwood Trust. To the extent that
6 anyone who has not filed a claim with the United States and
7 does not want to file a petition for remission or anything
8 can document their claim with us, we will honor that, as long
9 as we can, first, forfeit the funds, and second, corroborate
10 that they in fact made a payment to Redwood Trust.

11 For the time being, though, your Honor, we
12 will focus on Mr. Titus' claim that his interest is superior
13 to that of the investors and litigate whether or not he has
14 an interest and whether or not these are the proceeds of

15 fraud. If the answer is to the question of -- that they're
16 the proceeds of fraud is true, then Mr. Titus will forfeit
17 his interest and we will return the funds to the investors
18 that we've been able to certify, but we can't get to that
19 point right now because Mr. Titus is claiming a third of the
20 funds as Redwood Trust's fee. That's his right, that's fine,
21 we'll do that. But we've served him with a Notice of
22 Deposition for July the 28th and 29th and we'll begin to
23 litigate his claim that Redwood Trust is owed these funds as
24 their fee for having accepted these queuing fees.

25 THE COURT: Ms. Sadr, she is protected in this

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1 matter because she need only provide proof that they did make
2 contributions toward the fund?

3 MR. CAPEZZA: Your Honor, the order that we
4 will submit to the Court has as its stated exception any
5 claims by certified investors, anyone that can certify that
6 they've made a payment. That's all we're asking for. The
7 rules of admiralty and maritime claims require that they file
8 a verified claim. To the extent we haven't received a claim,
9 as a technical matter they're time barred but we're going to
10 waive the time because they're present and if anyone else can
11 identify that they in fact made a payment to Redwood Trust
12 and corroborate that with documentation, it's our goal to
13 honor that payment if we forfeit the funds. We simply do not
14 want to pay people that did not make a payment to Redwood
15 Trust which would thereby minimize the available funds for
16 the people who actually did make a payment.

17 THE COURT: Fine.

18 MR. CAPEZZA: But first, your Honor, we'll
19 litigate Mr. Titus' claim on behalf of Redwood Trust that
20 Redwood Trust and not the investors is owed this money.

21 MR. TITUS: Your Honor, I think that he's
22 talking about litigating this whether I have right to the
23 funds or not, I'm not looking to take the funds, I'm looking
24 to leave the funds there. If we were to be acquitted, which

25 we should be, then the funds would just be turned over to us

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1 and that would be a moot point. If I'm convicted, then the
2 funds, I would stipulate that those funds could go into --
3 remaining in the funds gets distributed out to the
4 representatives, or out to the clients and so I don't see
5 that there's a need for this and all this will be gone over
6 in the criminal court because we're going to have to
7 establish in criminal court that I had this one-third equity
8 in the money that had come in. And the problem is, in them
9 doing this, I have no representation at all because it's a
10 civil action and I have no funds because they've seized my
11 funds. I get -- I'll be getting a pension from the VA to
12 take care of my needs which is 800 something a month, I can't
13 afford an attorney, and because this isn't criminal, I'd be
14 not represented on this at all so I'd like this to be handled
15 in the criminal part of the case and I will stipulate that
16 I'm not going to be grabbing any funds anyhow but I want to
17 make it in the criminal part, I want to make it, have the
18 view that if a third of those funds were to come to Redwood
19 Trust to begin with because that's really part of the
20 criminal case. If I had a third of money coming to me, I
21 haven't spent a third of the money so there's more than a
22 third of the money still left in that pot.

23 When we started out in business, a third of
24 the money came to us to operate the company on, that was the
25 agreement because we said when he had to have money to

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1 operate on and two-thirds went to whoever the processor was,
2 but if someone wanted their money back in the meantime we'd
3 give it back but then to make a statement if everyone wanted
4 their money back tomorrow, you couldn't give it, well they
5 came up with an idea that said, it's like the bank, if
6 everyone made a run on the bank tomorrow, they would have

7 insurance, they would have FDIC, well, big deal. They only
8 have a 3 percent reserve. That was a very poor example for
9 them to bring up to me because I know the difference. They
10 only have a 3 percent reserve and how come when all those
11 banks went bankrupt down south, the government had to put the
12 money in, because they don't have it in those states so the
13 banks all went bankrupt tomorrow, they don't have the money
14 either.

15 And people don't expect that I would have to
16 come up with all the money and I never would. This is just a
17 way that they can get in -- they don't like what I'm doing,
18 that I'm helping people with mortgages. They made a claim to
19 the gals in the office that they're shutting down all
20 companies that have to do with mortgage elimination or
21 settlement. They don't like the idea that I'm involved in
22 programs, they're seizing funds all over the country,
23 shutting those down, and so this just isn't about that I did
24 something wrong. It's about how can they put Redwood Trust
25 out of business so they're not doing what we don't want them

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1 to do. If they came and talked to me and said, look, we
2 don't like this and tried to work something out, there's
3 something else that I could do, I could get the funds back to
4 the people. We had -- we had a basketball player was going
5 to give us, it was either 6 or \$7 million, 1 million to be
6 used to invest and the other was to be used to pay off
7 mortgages. That amount would have made up any difference
8 that they're talking about. They prohibited me from sending
9 a check for a corporate note that was worth \$115 million that
10 by contract I already contracted to send the money for by the
11 end of January and when I sent the check, the postal
12 inspector intercepted that check and prohibited me from
13 securing that corporate note that I could have used as
14 collateral for whatever I wanted, I could have sold it, I
15 could have used it for a line of credit, to back that up. So
16 I had security to do that, to back what I'm doing so this --

17 and they know that. They know that. They shouldn't even be
18 coming after me but they're shutting me down because they
19 don't like what I'm doing.

20 THE COURT: Well, here's the way it stands
21 right now. Your claims are going to be protected until it's
22 litigated, you've indicated to me that if you are found -- if
23 it is found to be a fraudulent concept, your whole plan you
24 put together, that you're going to back off on any claim to
25 the one-third, you did that.

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1 MR. TITUS: Yes, your Honor.

2 THE COURT: But that still doesn't stop the
3 government from wanting to go forward and depose you under
4 oath as to exactly -- well, whatever their questions are
5 about your interest in the trust.

6 MR. TITUS: Well, in all fairness, your Honor,
7 I don't think it's fair that they pursue me on something that
8 they know that I'm not going to have legal representation on
9 and that I know the law on and with my medical conditions and
10 the medications I have to take, that's not fair to me. I'm
11 going to have an attorney to defend me in the criminal action
12 where that would be gone into anyhow and resolved prior to,
13 you know, them coming to a decision as to where the money's
14 going to go, so that would all be worked out in due time
15 anyhow without an extra case there where I'm really going to
16 have no representation into this matter.

17 MR. CAPEZZA: Judge, presently the only case
18 that has been issued is the civil forfeiture matter.

19 THE COURT: There is no criminal matter at the
20 present time.

21 MR. CAPEZZA: There is no criminal indictment,
22 your Honor. Now what I will do is, I will make Mr. Titus'
23 attorneys on the criminal matter, no criminal indictment but
24 on the criminal matter, aware of this deposition. They will
25 do whatever they choose to do. If they think that he, in his

1 interest has no -- it's not in his interest to testify,
2 they'll use whatever options are available to them.

3 But the only case that has been filed with the
4 Court, your Honor, is the civil forfeiture matter, and to the
5 extent that there are hundreds of potential victims out
6 there, it's our goal to get that money forfeited and back to
7 them as quickly as possible. To the extent that Mr. Titus
8 wants to litigate this either criminally or civilly, that's
9 going to delay that. But what we will do is we will make his
10 attorneys aware of our notice of deposition, they will choose
11 to do whatever is available to them and we will issue to the
12 Court an order that preserves the interest of Redwood Trust
13 as well as anybody who can document that they in fact made a
14 payment to Redwood Trust as part of the programs identified
15 in the civil complaint.

16 THE COURT: Fine. Thank you.

17 THE CLERK: Court stands adjourned.

18 (Court Adjourned, 10:52 a.m.)

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C E R T I F I C A T I O N

I, JODI L. HIBBARD, RPR, CRR, CSR, Official
Court Reporter in and for the United States District Court,
Northern District of New York, DO HEREBY CERTIFY that I
attended the foregoing proceedings, took stenographic notes
of the same, and that the foregoing is a true and correct
transcript thereof.

JODI L. HIBBARD, RPR, CRR, CSR
Official U.S. Court Reporter

